

## **EXHIBIT C**

RECODER'S MEMORANDUM  
This instrument is of poor quality  
at the time of imaging

Cause Nr.: 2016 - 00623

PAULA A. SIMS, Plaintiff	S	IN THE DISTRICT COURT
v.	S	
AMERICA'S FAMILY DENTAL LLP, Defendant	S	HARRIS COUNTY, TEXAS
	S	
	S	26 <sup>th</sup> JUDICIAL DISTRICT

P. 6  
**FILED**  
Chris Daniel  
District Clerk  
**JAN 06 2016**  
Harris County, Texas  
1/13/2016  
Deputy  
M. H. M.

### PLAINTIFF'S ORIGINAL PETITION

TO THE HONORABLE STATE DISTRICT JUDGE:

COMES NOW, PAULA A. SIMS, Plaintiff, and complains of AMERICA'S FAMILY DENTAL LLP, Defendant, as follows:

I.

### PARTIES

Plaintiff Paula Sims is an individual residing in Harris County, Texas.

Defendant America's Family Dental LLP, is an active, for profit, limited liability partnership which may be served with process by serving one of its partners, Josh Gosnell, at 616 West Main Street, Tomball, Texas 77375.

II.

### VENUE

Venue of this action is proper in Harris County, Texas because the parties to this lawsuit reside and transact business in Harris County, Texas, the actions, events, and transactions which gave rise to the causes of action alleged herein took place in Harris County, Texas, and the causes of action alleged herein also accrued in Harris County, Texas.

III.

### NATURE OF LAWSUIT

This is a lawsuit involving sex and pregnancy discrimination and is brought pursuant to Title VII of the Civil Rights Act of 1964, as amended, 42 USC Section 2000e et seq.

Defendant America's Family Dental LLP is a business which provides dental services. It

Page 2

is engaged in a business affecting commerce, as that term is defined in 42 USC Section 2000e(b). It has employed at least 15 employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year and, therefore, is an "employer" within the meaning of 42 USC Section 2000e(b).

#### IV.

##### FACTS

Defendant hired the Plaintiff, a White female, in December 2008 in the position of Registered Dental Assistant. At all times relevant to this lawsuit Plaintiff worked for the Defendant in Harris County, Texas.

Defendant is owned and operated by Dr. Josh Gosnell. Around May 2012 he promoted the Plaintiff to Registered Dental Head. The promotion included a raise of about \$4,000.00 a year. Previously, Defendant paid the Plaintiff at the rate of \$18.00/hour. Plaintiff worked about 50 hours a week, but was not paid overtime wages for the ten (10) overtime hours. Defendant paid the Plaintiff around \$900.00/week, when, in fact, she should have been paid no less than \$990.00/week. At this rate, Defendant should have paid the Plaintiff around \$52,000.00 a year, plus the \$4,000.00 a year wage increase which went with Plaintiff's May 2012 promotion.

However, around June 1, 2012 Plaintiff informed Dr. Gosnell that she was pregnant. Dr. Gosnell's reaction was bizarre. He told the Plaintiff he did not know whether to fire her or not, and informed her he would have to consult with Casey Wilkerson, Registered Dental Assistant, to determine what to do with her. On June 6, 2012 Plaintiff met with Dr. Gossnell, Reba Rodano, Manager, and Dr. Turner. They informed the Plaintiff that she would be demoted from Registered Dental Assistant to Hygiene Assistant but that her wages would stay the same. They justified the demotion stating they did not want the Plaintiff to work around nitrous.

Since informing Dr. Gosnell of her pregnancy, he continued to make comments to co-workers and patients that he did not know what he was going to do with the Plaintiff, commented that Plaintiff was pregnant, and that he was going to fire her. He also told the Plaintiff, literally,

Page 3

that he was going to fire her due to her pregnancy. He also joked around the office that if anything went wrong around the office it was due to Plaintiff's pregnancy. Additionally, when Rodano interviewed new hires, Dr. Gosnell would interrupt the interviews to ask the female applicants if they were pregnant, sterile or wearing a chastity belt. Dr. Turner was informed of this matter. On November 12, 2012 Plaintiff was terminated.

There have been other pregnant females Defendant employed along the years. Many of them resigned after notifying Defendant of their pregnancy and after Dr. Gosnell created a hostile work environment for them. One was terminated while on maternity leave.

Subsequent to these events Plaintiff timely filed, on December 11, 2012, a charge of discrimination against the Defendant with the Equal Employment Opportunity Commission. The charge alleged sex and pregnancy discrimination.

On October 21, 2015 the EEOC issued the Plaintiff a right to sue, thereby allowing her to sue Defendant in court. Plaintiff filed this action within ninety (90) days of her receipt of the right to sue.

V.

PLAINTIFF'S CAUSE OF ACTION FOR SEX DISCRIMINATION

Plaintiff realleges all factual allegations set forth above and would show that Defendant is liable to her for sex and pregnancy discrimination under Title VII of the Civil Rights Act of 1964, as amended. At all times relevant to this lawsuit Plaintiff was, on account of her sex, female, and pregnancy, a member of a protected class. Defendant treated Plaintiff less favorably in the terms and conditions of her employment than its male employees because of her sex, female and pregnancy. This discrimination is the proximate cause of both economic and mental damages suffered by the Plaintiff.

Page 4

Plaintiff further realleges all facts stated above and would show that Defendant is liable to her for unlawful and discriminatory termination of employment. Plaintiff's sex, female, and pregnancy were, each, a motivating factor in Plaintiff's termination.

As a proximate result of the sex and pregnancy discrimination to which she was subjected, Plaintiff suffered extensive economic and mental damages.

Plaintiff satisfied all jurisdictional and procedural prerequisites for bringing this cause of action.

VI.

Pursuant to Texas Rule of Civil Procedure 54, all conditions precedent to Plaintiff's right to recover damages against the Defendant recited herein have occurred or have been performed.

VII.

Defendant's refusal to abide by its obligations has made it necessary for Plaintiff to employ the undersigned attorney to file this lawsuit. As such, Plaintiff requests this court to award a reasonable fee for the attorney's services rendered and to be rendered herein under both customary and statutory law.

VIII.

REQUEST FOR JURY TRIAL

Plaintiff requests a trial by jury and tenders the jury fee.

IX.

DAMAGES

Plaintiff is now suffering and will continue to suffer irreparable injury, monetary, emotional, actual, consequential, and compensatory damages as a result of Defendant's wrongful actions unless and until this court grants relief.

Defendant's actions against the Plaintiff have been perpetrated with malice, in bad faith,

Page 5

and with reckless disregard for her rights. Therefore, Plaintiff requests the court to impose exemplary damages.

X.

PRAYER FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Plaintiff Paula A. Sims prays that Defendant America's Family Dental LLP be cited to appear and answer and that on final trial Plaintiff be granted relief as follows:

1. Judgment against the Defendant in excess of the minimum jurisdictional limits of this Court;
2. Injunctive relief and a directive by the court that Defendant's actions violated Title VII of the Civil Rights Act of 1964, as amended, and that Defendant cease and desist from such conduct in the future.
3. An award of actual, consequential, and compensatory damages on all counts;
4. An award of punitive damages on all counts;
5. Costs of suit and reasonable attorney's fees;
6. Prejudgment and postjudgment interest as provided by law; and
7. Such other and further relief, in law and in equity, to which Plaintiff may be justly entitled.

Respectfully submitted,

BY: //ss// *Paula Sims*

---

Paula Sims  
9115 Orange Siren  
Humble, Texas 77338  
Tel 832-748-3571  
Attorney pro se

RECORDER'S MEMORANDUM  
This instrument is of poor quality  
at the time of imaging

CIVIL CASE INFORMATION SHEET (REV. 01/11)  
2016 - 00625 COURT (FOR CLERK USE ONLY): 269

## STYLED

(e.g., John Smith v. All American Insurance Co; In re Mary Ann Jones; In the Matter of the Estate of George Jackson)

A civil case information sheet must be completed and submitted when an original petition or application is filed to initiate a new civil, family law, probate, or mental health case or when a post-judgment petition for modification or motion for enforcement is filed in a family law case. The information should be the best available at the time of filing.

<b>1. Contact Information for person completing case information sheet:</b>		<b>Names of parties in case:</b>	<b>Person or entity completing sheet for:</b>
Name: <i>Bulda Sims</i>	Email: <i>sims.beatrice@yahoo.com</i>	Plaintiff(s)/Petitioner(s): <i>Paula Sims</i>	<input type="checkbox"/> Attorney for Plaintiff/Petitioner <input checked="" type="checkbox"/> Pro Se Plaintiff/Petitioner <input type="checkbox"/> Title IV-D Agency <input type="checkbox"/> Other _____
Address: <i>915 Orange Siende 832-746-3571</i>	Telephone: <i>77338</i>	Defendant(s)/Respondent(s): <i>América's Family Dental 119</i>	Additional Parties in Child Support Case:  <b>Custodial Parent:</b>  <b>Non-Custodial Parent:</b>  <b>Presumed Father:</b>
City, State, Zip: <i>Humble 77</i>	Fax: <i>_____</i>	(Attach additional page as necessary for all names)	
Signature: <i>Paula Sims</i>	State Bar No: <i>_____</i>		
<b>2. Indicate case type or identify the most important issue in the case (select only 1 box):</b>			
<b>Civil</b>		<b>Family Law</b>	
<b>Contract</b>	<b>Injury or Damage</b>	<b>Real Property</b>	<b>Post-Judgment Actions (see Title IV-D)</b>
<b>Debt/Contract</b> <input type="checkbox"/> Consumer/DTPA <input type="checkbox"/> Debt/Contract <input type="checkbox"/> Fraud/Misrepresentation <input type="checkbox"/> Other Debt/Contract:  <b>Foreclosure</b> <input type="checkbox"/> Home Equity—Expedited <input type="checkbox"/> Other Foreclosure  <b>Franchise</b> <input type="checkbox"/> Insurance <input type="checkbox"/> Landlord/Tenant <input type="checkbox"/> Non-Competition <input type="checkbox"/> Partnership <input type="checkbox"/> Other Contract:  <b>Employment</b> <input checked="" type="checkbox"/> Discrimination <input type="checkbox"/> Retaliation <input type="checkbox"/> Termination <input type="checkbox"/> Workers' Compensation <input type="checkbox"/> Other Employment:  <b>Tax</b> <input type="checkbox"/> Tax Appraisal <input type="checkbox"/> Tax Delinquency <input type="checkbox"/> Other Tax	<input type="checkbox"/> Assault/Battery <input type="checkbox"/> Construction <input type="checkbox"/> Defamation <input type="checkbox"/> Malpractice <input type="checkbox"/> Accounting <input type="checkbox"/> Legal <input type="checkbox"/> Medical <input type="checkbox"/> Other Professional Liability:  <input type="checkbox"/> Motor Vehicle Accident <input type="checkbox"/> Premises <b>Product Liability</b> <input type="checkbox"/> Asbestos/Silica <input type="checkbox"/> Other Product Liability List Product:  <input type="checkbox"/> Other Injury or Damage:  <b>Other Civil Cases</b> <input type="checkbox"/> Administrative Appeal <input type="checkbox"/> Antitrust/Unfair Competition <input type="checkbox"/> Code Violations <input type="checkbox"/> Foreign Judgment <input type="checkbox"/> Intellectual Property	<input type="checkbox"/> Eminent Domain/Condemnation <input type="checkbox"/> Partition <input type="checkbox"/> Quiet Title <input type="checkbox"/> Trespass to Try Title <input type="checkbox"/> Other Property:  <b>Related to Criminal Matters</b> <input type="checkbox"/> Expunction <input type="checkbox"/> Judgment Nulli <input type="checkbox"/> Non-Disclosure <input type="checkbox"/> Seizure/Forfeiture <input type="checkbox"/> Writ of Habeas Corpus—Pre-indictment <input type="checkbox"/> Other:  <b>Other Family Law</b> <input type="checkbox"/> Enforce Foreign Judgment <input type="checkbox"/> Habeas Corpus <input type="checkbox"/> Name Change <input type="checkbox"/> Protective Order <input type="checkbox"/> Removal of Disabilities of Minority <input type="checkbox"/> Other:  <b>Parent-Child Relationships</b> <input type="checkbox"/> Adoption/Adoption with Termination <input type="checkbox"/> Child Protection <input type="checkbox"/> Child Support <input type="checkbox"/> Custody or Visitation <input type="checkbox"/> Gestational Parenting <input type="checkbox"/> Grandparent Access <input type="checkbox"/> Parentage/Paternity <input type="checkbox"/> Termination of Parental Rights <input type="checkbox"/> Other Parent/Child:  <i>Chris M. District Clerk JAN 06 2016 Harris County, Texas Deputy P. Miller</i>	
<b>Probate &amp; Mental Health</b>			
<input type="checkbox"/> Probate/Wills/Intestate Administration <input type="checkbox"/> Dependent Administration <input type="checkbox"/> Independent Administration <input type="checkbox"/> Other Estate Proceedings		<input type="checkbox"/> Guardianship—Adult <input type="checkbox"/> Guardianship—Minor <input type="checkbox"/> Mental Health <input type="checkbox"/> Other:  <b>Temporary Restraining Order/Injunction</b> <input type="checkbox"/> Turnover	
<b>3. Indicate procedure or remedy, if applicable (may select more than 1):</b>			
<input type="checkbox"/> Appeal from Municipal or Justice Court <input type="checkbox"/> Arbitration-related <input type="checkbox"/> Attachment <input type="checkbox"/> Bill of Review <input type="checkbox"/> Certiorari <input type="checkbox"/> Class Action		<input type="checkbox"/> Declaratory Judgment <input type="checkbox"/> Garnishment <input type="checkbox"/> Interpleader <input type="checkbox"/> License <input type="checkbox"/> Mandamus <input type="checkbox"/> Post-judgment	<input type="checkbox"/> Prejudgment Remedy <input type="checkbox"/> Protective Order <input type="checkbox"/> Receiver <input type="checkbox"/> Sequestration <input type="checkbox"/> Temporary Restraining Order/Injunction <input type="checkbox"/> Turnover
<b>4. Indicate damages sought (do not select if it is a family law case):</b>			
<input type="checkbox"/> Less than \$100,000, including damages of any kind, penalties, costs, expenses, pre-judgment interest, and attorney fees <input type="checkbox"/> Less than \$100,000 and non-monetary relief <input type="checkbox"/> Over \$100,000 but not more than \$200,000 <input type="checkbox"/> Over \$200,000 but not more than \$1,000,000 <input type="checkbox"/> Over \$1,000,000			

10278486

## RECORDER'S MEMORANDUM

This instrument is of poor quality  
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## CIVIL PROCESS REQUEST

P.D. FILE  
Chris Daniel  
District Clerk  
JAN 6 2016  
Harris County, Texas  
Deputy  
1:42 PM  
D.L. Hudd

FOR EACH PARTY SERVED YOU MUST FURNISH ONE (1) COPY OF THE PLEADING  
FOR WRITS FURNISH TWO (2) COPIES OF THE PLEADING PER PARTY TO BE SERVED

CASE NUMBER: 2016-00623CURRENT COURT: 269TYPE OF INSTRUMENT TO BE SERVED (See Reverse For Types): Original petitionFILE DATE OF MOTION: 1/6/2015  
Month Day Year

SERVICE TO BE ISSUED ON (Please List Exactly As The Name Appears In The Pleading To Be Served):

1. NAME: America's Family DentalADDRESS: 1616 West Main Street, Tomball TX 77375AGENT, (if applicable): Toshin Gosnell

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): \_\_\_\_\_

SERVICE BY (check one):

- |                                                                               |                                                          |
|-------------------------------------------------------------------------------|----------------------------------------------------------|
| <input type="checkbox"/> ATTORNEY PICK-UP                                     | <input checked="" type="checkbox"/> CONSTABLE            |
| <input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: | Phone: _____                                             |
| <input type="checkbox"/> MAIL                                                 | <input type="checkbox"/> CERTIFIED MAIL                  |
| <input type="checkbox"/> PUBLICATION:                                         |                                                          |
| Type of Publication: <input type="checkbox"/> COURTHOUSE DOOR, or             |                                                          |
|                                                                               | <input type="checkbox"/> NEWSPAPER OF YOUR CHOICE: _____ |
| <input type="checkbox"/> OTHER, explain _____                                 |                                                          |

\*\*\*\*\*

2. NAME: \_\_\_\_\_

ADDRESS: \_\_\_\_\_

AGENT, (if applicable): \_\_\_\_\_

TYPE OF SERVICE/PROCESS TO BE ISSUED (see reverse for specific type): \_\_\_\_\_

SERVICE BY (check one):

- |                                                                               |                                                          |
|-------------------------------------------------------------------------------|----------------------------------------------------------|
| <input type="checkbox"/> ATTORNEY PICK-UP                                     | <input type="checkbox"/> CONSTABLE                       |
| <input type="checkbox"/> CIVIL PROCESS SERVER - Authorized Person to Pick-up: | Phone: _____                                             |
| <input type="checkbox"/> MAIL                                                 | <input type="checkbox"/> CERTIFIED MAIL                  |
| <input type="checkbox"/> PUBLICATION:                                         |                                                          |
| Type of Publication: <input type="checkbox"/> COURTHOUSE DOOR, or             |                                                          |
|                                                                               | <input type="checkbox"/> NEWSPAPER OF YOUR CHOICE: _____ |
| <input type="checkbox"/> OTHER, explain _____                                 |                                                          |

ATTORNEY (OR ATTORNEY'S AGENT) REQUESTING SERVICE:

NAME: Beatrice Sims TEXAS BAR NO./ID NO. \_\_\_\_\_MAILING ADDRESS: 905 Orange Street Dr. Humble TX 77338PHONE NUMBER: 832 748-3571 FAX NUMBER: \_\_\_\_\_  
area code phone number area code fax numberEMAIL ADDRESS: sims.beatrice@yahoo.com

SERVICE REQUESTS WHICH CANNOT BE PROCESSED BY THIS OFFICE WILL BE HELD FOR 30 DAYS PRIOR TO CANCELLATION. FEES WILL BE REFUNDED ONLY UPON REQUEST, OR AT THE DISPOSITION OF THE CASE. SERVICE REQUESTS MAY BE REINSTATED UPON APPROPRIATE ACTION BY THE PARTIES.

INSTRUMENTS TO BE SERVED:

(Fill In Instrument Sequence Number, i.e. 1st, 2nd, etc.)

ORIGINAL PETITION

 AMENDED PETITION SUPPLEMENTAL PETITION

COUNTERCLAIM

 AMENDED COUNTERCLAIM SUPPLEMENTAL COUNTERCLAIM

CROSS-ACTION:

 AMENDED CROSS-ACTION SUPPLEMENTAL CROSS-ACTION

THIRD-PARTY PETITION:

 AMENDED THIRD-PARTY PETITION SUPPLEMENTAL THIRD-PARTY PETITION

INTERVENTION:

 AMENDED INTERVENTION SUPPLEMENTAL INTERVENTION

INTERPLEADER

 AMENDED INTERPLEADER SUPPLEMENTAL INTERPLEADER

INJUNCTION

MOTION TO MODIFY

SHOW CAUSE ORDER

TEMPORARY RESTRAINING ORDER

BILL OF DISCOVERY:

ORDER TO: \_\_\_\_\_  
(specify)MOTION TO: \_\_\_\_\_  
(specify)PROCESS TYPES:NON WRIT:

CITATION

ALIAS CITATION

PLURIES CITATION

SECRETARY OF STATE CITATION

COMMISSIONER OF INSURANCE

HIGHWAY COMMISSIONER

CITATION BY PUBLICATION

NOTICE

SHORT FORM NOTICE

PRECEPT (SHOW CAUSE)

RULE 106 SERVICE

SUBPOENA

WRITS:

ATTACHMENT (PROPERTY)

ATTACHMENT (WITNESS)

ATTACHMENT (PERSON)

CERTIORARI

EXECUTION

EXECUTION AND ORDER OF SALE

GARNISHMENT BEFORE JUDGMENT

GARNISHMENT AFTER JUDGMENT

HABEAS CORPUS

INJUNCTION

TEMPORARY RESTRAINING ORDER

PROTECTIVE ORDER (FAMILY CODE)

PROTECTIVE ORDER (CIVIL CODE)

POSSESSION (PERSON)

POSSESSION (PROPERTY)

SCIRE FACIAS

SEQUESTRATION

SUPERSEDEAS

CONFIRMED FILE DATE: 1/25/2016

C 201600623

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mP2  
*[Signature]*RECEIPT NO 22966  
01-06-2016

75 00

CO1

TR # 73203897

PLAINTIFF SIMS, PAULA  
vs  
DEFENDANT AMERICAS FAMILY DENTAL LLPIn The 269th  
Judicial District Court  
of Harris County, Texas  
269TH DISTRICT COURT  
Houston, TXTHE STATE OF TEXAS  
County of Harris

CITATION

*AC30  
288G1N*TO AMERICAS FAMILY DENTAL LLP BY SERVING ITS REGISTERED AGENT  
JOSH GOSNELL  
616 WEST MAIN STREET TOMBALL TX 77375

FILE

Chris Daniel  
District Clerk

JAN 25 2016

Time: 10:00 AM  
Harris County, Texas  
Ex-Officio  
Deputy

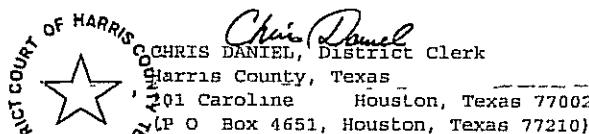
Attached is a copy of PLAINTIFF'S ORIGINAL PETITION

This instrument was filed on the 6th day of January, 2016, in the above cited cause number and court. The instrument attached describes the claim against you.

YOU HAVE BEEN SUED. You may employ an attorney. If you or your attorney do not file a written answer with the District Clerk who issued this citation by 10:00 a.m. on the Monday next following the expiration of 20 days after you were served this citation and petition, a default judgment may be taken against you.

TO OFFICER SERVING

This citation was issued on 7th day of January, 2016, under my hand and seal of said Court.

Issued at request of  
SIMS, PAULA  
9115 ORANGE SIREN DR  
HUMBLE, TX 77338

Bar No 1

GENERATED BY TAYLOR, SHANELLE L 3VT/DBG/10278486

## OFFICER/AUTHORIZED PERSON RETURN

Came to hand at \_\_\_\_\_ o'clock \_\_\_\_\_ M, on the \_\_\_\_\_ day of \_\_\_\_\_,

Executed at (address) \_\_\_\_\_ in \_\_\_\_\_

County at \_\_\_\_\_ o'clock \_\_\_\_\_ M, on the \_\_\_\_\_ day of \_\_\_\_\_,

\_\_\_\_\_, by delivering to \_\_\_\_\_ defendant, in person, a true copy of this Citation together with the accompanying \_\_\_\_\_ copy(ies) of the Petition

attached thereto and I endorsed on said copy of the Citation the date of delivery To certify which I affix my hand officially this \_\_\_\_\_ day of \_\_\_\_\_,

Fee \$ \_\_\_\_\_

\_\_\_\_\_ of \_\_\_\_\_ County, Texas

By \_\_\_\_\_  
Affiant Deputy

On this day, \_\_\_\_\_, known to me to be the person whose signature appears on the foregoing return, personally appeared After being duly sworn, he/she stated that this citation was executed by him/her in the exact manner recited on the return

SWORN TO AND SUBSCRIBED BEFORE ME, on this \_\_\_\_\_ day of \_\_\_\_\_,

RECORDER'S MEMORANDUM  
This instrument is of poor quality  
at the time of imaging  
NINT CTR P

Notary Public



Constable Return of Corporation

Cause # 201600623

Tracking # 73203897

In the case of SIMS, PAULA VS AMERICAS FAMILY DENTAL LLP a CITATION and attached petition was issued by the 269th court of harris County, texas and came to hand on the 12 day of January, 2016 at 2 53PM to be delivered at 616 West Main Street, Tomball, TX 77375 by delivering to AMERICAS FAMILY DENTAL LLP BY SERVING ITS REGISTER

Service of Corporation

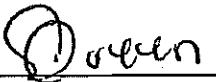
Executed the same in harris County, Texas, on the 20 day of January, 2016 at 1 33PM by summoning AMERICAS FAMILY DENTAL LLP a Corporation at 616 West Main Street, Tomball, Texas 77375 By delivering to JOSH GOSNELL in person the registered agent of said Corporation a true copy of this CITATION, together with the accompanying certified copy of the petition

Fee \$ 75 00

Mark Herman , Constable Precinct #4

by Deputy STEVE GARCIA

Printed

Deputy Signature 

Attempts 2

Harris County Texas

330 Meadowfern Dr , 2nd Fl  
Houston, Texas 77067  
(281) 401-6225

FILED

Chris Daniel  
District Clerk

JAN 25 2016

Time

8:30am

By

Harris County, Texas

Mark Herman

Deputy

2/10/2016 4:26:35 PM

Chris Daniel - District Clerk Harris County

Envelope No. 9060213

By: Joshua Bovell

Filed: 2/10/2016 4:26:35 PM

**CAUSE NO. 2016-00623**

PAULA SIMS § IN THE DISTRICT COURT OF  
§  
v. § HARRIS COUNTY, TEXAS  
§  
AMERICA'S FAMILY DENTAL LLP § 269<sup>th</sup> JUDICIAL DISTRICT

**DEFENDANT'S ORIGINAL ANSWER,**

America's Family Dental LLP ("America's Family Dental"), the Defendant in the above styled and numbered cause of action, in response to Plaintiff's Original Petition filed against it, respectfully shows unto this Honorable Court as follows:

**I. GENERAL DENIAL**

1. As authorized by Rule 92 of the Texas Rules of Civil Procedure, America's Family Dental enters a general denial of all matters pleaded by Plaintiff.

**II. DEFENSES AND AFFIRMATIVE DEFENSES**

2. Plaintiff's Petition fails, in whole or in part, to state a claim upon which relief may be granted.

3. Upon information and belief, Plaintiff has failed to meet the conditions precedent to an action under Title VII.

4. Some or all of Plaintiff's claims may be barred by the applicable statute of limitations or failure to exhaust administrative remedies within the statutory period.

5. Plaintiff's claims for damages are limited, in whole or in part, by the applicable statutory caps.

6. Defendant asserts all of the Defendant's decisions with respect to the Plaintiff were based on legitimate, nondiscriminatory reasons and were not pretexts for discrimination.

7. Plaintiff's claims are barred or limited to the extent Plaintiff has failed to mitigate her damages.

8. Plaintiff's claims are barred, in whole or in part, by the doctrines of waiver, estoppel, laches and unclean hands.

9. To the extent that Plaintiff's allegations exceed the reasonable scope and investigation of the charges of discrimination that she filed, they are barred.

10. To the extent that Plaintiff engaged in misconduct, fraud, or other conduct that was discovered after Plaintiff applied for employment, any remedy otherwise available to Plaintiff in this action is limited by the after-acquired evidence doctrine.

11. Defendant asserts that punitive damages are not assessable.

12. Defendant asserts that Plaintiff is not entitled to attorneys' fees.

13. In the event that Plaintiff is entitled to any recovery, Defendant is entitled to a set-off in the amount that Plaintiff actually received, or in the exercise of reasonable diligence could have received, from other sources of recovery.

14. Defendant has made good-faith efforts to prevent discrimination in its workplace, and cannot be liable for the decisions of its agents, if any, or for punitive damages, to the extent the challenged employment decision was contrary to its good-faith efforts to comply with anti-discrimination statutes.

15. Defendant reserves the right to amend or assert additional defenses as they become apparent throughout the factual development of this case.

### **III. DEFENDANT'S SPECIAL EXCEPTIONS TO PLAINTIFF'S ORIGINAL PETITION**

16. Defendant specially excepts to Paragraph V of Plaintiff's Original Petition on the ground that it alleges that "Defendant treated Plaintiff less favorably in the terms and conditions of employment than its male employees because of her sex, female, and pregnancy..." but fails to plead any facts upon which the conclusory allegation rests. Defendant requests that the court sustain this special exception and order that Plaintiff amend her pleading to provide fair notice of the underlying facts to support the conclusory allegation that Defendant treated Plaintiff less favorably in the terms and conditions of employment than its male employees because of her sex.

17. Defendant specifically excepts to Paragraph IX of Plaintiff's Original Petition on the ground that it alleges that Defendant's actions against the Plaintiff were perpetrated with malice, in bad faith, and with reckless disregard for her rights, but fails to plead any facts supporting such conclusory allegation. Defendant requests that the court sustain this special exception and order that Plaintiff amend her pleading to provide fair notice of the underlying facts upon which she bases her allegation of malice, bad faith and reckless disregard for Plaintiff's rights.

18. Defendant specifically excepts to Plaintiff's Petition on the ground that Plaintiff failed to plead the discovery level as required by Rule 190.1 of the Texas Rules of Civil Procedure. A plaintiff's failure to plead as required by Rule 190.1 is subject to special exception. Tex. R. Civ. P. 190.1, Comment 1.

19. Additionally, Defendant specifically excepts to Plaintiff's Original Petition on the ground that it fails to specify the maximum amount of damages claimed as required by Texas Rules of Civil Procedure 47C. According to Rule 47, "[U]pon special exception the court shall require the pleader to amend so as to specify the maximum amount claimed." Tex. R. Civ. P. 47. "A party

that fails to comply with Rule 47© of the Texas Rules of Civil Procedure may not conduct discovery until the party's pleading is amended to comply." *Id.* Accordingly, Plaintiff must plead the maximum amount of damages sought and Plaintiff may not conduct discovery until her pleading is amended to comply with Rule 47. *Id.*

20. Defendant requests the Court sustain its Special Exceptions and order Plaintiff to replead and cure her pleading defects and if Plaintiff does not cure her defects that Plaintiff's action be dismissed.

#### **IV. RESPONSE TO DEMAND FOR JURY TRIAL**

21. Plaintiff is not entitled to a jury trial on all of the claims and issues raised in her Original Petition, and Defendant does not consent to a jury trial of such issues.

#### **V. PRAYER**

WHEREFORE, PREMISES CONSIDERED, Defendant prays that Plaintiff's action be dismissed with prejudice, and that the Court award Defendant its costs including reasonable attorney's fees, and any other and further relief that is deemed to be just and proper.

Respectfully Submitted,  
**WARD LAW FIRM**

By: /s/ David A. Ward, Jr.

David A. Ward Jr.  
SBN 00785177  
Parkwood One  
10077 Grogan's Mill Dr., Ste 450  
The Woodlands, Texas 77380  
Telephone: 281-362-7728  
Facsimile: 281-362-7743  
ward@dwardlaw.com  
**ATTORNEY FOR DEFENDANT**

**CERTIFICATE OF SERVICE**

I certify that pursuant to the Texas Rules of Civil Procedure, a true and correct copy of the foregoing pleading was filed with the Harris County District Clerk and forwarded to all counsel of record via the Court's TEXFILE electronic filing system on this 10th day of February, 2016:

**Pro Se**

Paula Sims  
9115 Orange Siren  
Humble, Texas 77338

sims.beatrice@yahoo.com  
CMRRR70041350000269156771

/s/David A. Ward, Jr.  
David A. Ward, Jr.